

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) LISA FERLAINO and

(2) JAMES FERLAINO,

Plaintiffs,

V.

Case No. CIV-20-939-C

(1) CROSSLAND CONSTRUCTION

COMPANY, INC., and

(2) JOHN DOE,

Defendants.

**DEFENDANT CROSSLAND CONSTRUCTION COMPANY, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Crossland Construction Company, Inc. (“Crossland”) hereby files its Notice of Removal of this case from the District Court of Oklahoma County, State of Oklahoma, to this Court. In support of removal, Crossland states the following:

1. On August 20, 2020 Plaintiffs Lisa Ferlaino and James Ferlaino (“Plaintiffs”) filed a Petition in the District Court of Oklahoma County, State of Oklahoma, styled *Lisa Ferlaino and James Ferlaino, Plaintiffs v. Crossland Construction Company, Inc., and John Doe, Defendants*, Case Number CJ-2020-3926 (“State Court Action”). (See State Court Petition, **Exhibit 1**)

2. Plaintiffs served process of the Petition in the State Court Action upon Defendant Crossland Construction, Company, Inc. on or about August 27, 2020.

3. In their Petition, Plaintiffs seek judgment in their favor against Defendants Crossland Construction Company, Inc. and John Doe and to be awarded a sum exceeding \$75,000.00 for damages. (**Ex. 1**)

4. Plaintiffs are citizens of the State of Oklahoma. (**¶ 1, Ex. 1**)

5. Defendant Crossland Construction Company, Inc. is a citizen of the State of Kansas, with its principal place of business also in Kansas. (**¶ 3, Ex. 1**)

6. Defendant “John Doe” is a legal fiction, unidentified with any specificity in Plaintiffs’ Petition, and thus state of citizenship of this unidentified placeholder is not relevant to a determination of whether there is complete diversity of parties in this action. “In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.” 28 U.S.C. § 1441 (b). *See also, Australian Gold, Inc. v. Hatfield*, 436 F.3d 1228 (10th Cir. (OK) 2006).

7. Because the amount in controversy in this action exceeds \$75,000.00 and diversity exists between the actual parties, this case is properly removed within the applicable time constraints pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

8. The United States District Court for the Western District of Oklahoma is the appropriate court for filing the instant Notice of Removal, as it embraces the District Court of Oklahoma County, State of Oklahoma, where the State Court Action is currently pending.

9. Upon receiving the federally-filed Notice of Removal, Defendant Crossland Construction Company, Inc. will file a copy of the Notice of Removal with the District

Court of Oklahoma County, State of Oklahoma, under the Case No. CJ-2020-3926, as well as provide written notice of the filing of the removal to Plaintiff's counsel, in accordance with 28 U.S.C. § 1446(d).

10. Pursuant to 28 U.S.C. § 1446 and LCvR 81.2(a), a copy of the docket sheet and copies of the documents filed and/or served in the State Court Action are attached. (See, State Court Petition, **Ex. 1**; Summons, **Ex. 2**; State Court docket sheet, **Ex. 3**.)

11. Under the provisions of 28 U.S.C. § 1332, 1441, and 1446 and all other applicable statutes with which Defendant Crossland Construction Company, Inc. has fully complied herein, this cause of action is removable to the United States District Court for the Western District of Oklahoma.

Respectfully submitted,

s/Derek Cowan

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ATTORNEYS FOR DEFENDANT

CROSSLAND CONSTRUCTION

COMPANY, INC.

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of September, 2020, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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